

1 UNITED STATES BANKRUPTCY COURT

2 DISTRICT OF PUERTO RICO

3 In Re:) Docket No. 11-06637-MCF7
) Chapter 7
 4 JUAN CARLOS BALCELLS)
 GALLARETA,) Old San Juan, Puerto Rico
 5) February 9, 2022
 Debtor.)
 6) Adv. Proc. 14-00137-MCF
 - - - - - x)
 7)
 NOREEN WISCOVITCH RENTAS, ET)
 8 AL.,)
)
 9 Plaintiffs,)
 v.)
 10)
 AMARILIS GONZALEZ GARCIA,)
 11)
 Defendant.)
 12 - - - - - x)
)

13
 14 ORDER TO SHOW CAUSE TO THE PLAINTIFF (DKT #220)
 15 TRUSTEE'S MOTION IN COMPLIANCE WITH THE ORDER TO SHOW CAUSE
 (DKT #223)

16 BEFORE THE HONORABLE MILDRED CABAN FLORES

17 UNITED STATES BANKRUPTCY JUDGE.

18
 19 APPEARANCES (TELEPHONICALLY):

20 For the Chapter 7 Trustee: RAFAEL A. GONZALEZ VALIENTE,
 21 ESQ.
 NOREEN WISCOVITCH-RENTAS, ESQ.

22 Pro Se Defendant: AMARILIS GONZALEZ GARCIA

23 PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING.

24 TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE.



1 Old San Juan, Puerto Rico

2 February 9, 2022

3 At or about 9:30 a.m.

4 * * *

5 THE CLERK: Calling case number 2 and case number 3
6 are case number 2011-6637, Juan Carlos Balcells Gallareta, and
7 adversary proceeding 2014-137

8 THE COURT: If debtor's counsel can make the
9 appearance, followed by creditor's counsel and any other
10 party-in-interest.

11 MR. GONZALEZ: Good morning, Your Honor.

12 THE COURT: And --

13 MR. GONZALEZ: Oh, sorry.

14 THE COURT: No, you may proceed.

15 MR. GONZALEZ: Oh. Attorney Rafael Gonzalez
16 Valiente, representation of the bankruptcy estate, Your Honor.

17 THE COURT: Good morning, Mr. Gonzalez Valiente.

18 Any debtor, creditor's counsel present --

19 MS. GONZALEZ: I'm --

20 THE COURT: -- for the case of --

21 MS. GONZALEZ: Amarilis Gonzalez, pro se, as a
22 creditor.

23 THE COURT: Good morning, Ms. Gonzalez.

24 MS. GONZALEZ: Good morning.

25 THE COURT: Anyone else in the Juan Carlos Balcells



1 Gallareta?

2 MS. WISCOVITCH: Yes. Yes, Your Honor. Noreen
3 Wiscovitch, Chapter 7 trustee.

4 THE COURT: Good morning, Ms. Wiscovitch.

5 Anyone else?

6 So I understand we have everyone. Okay. So we have
7 two matters. I understand we have the Chapter 7 trustee's
8 amended objection to claim 5-2 filed by the claimant Amarilis
9 Gonzalez Garcia. We have also a motion for summary judgment
10 in opposition. And we have -- the other matter is the order
11 to show cause and the trustee's motion and compliance with the
12 order to show cause with respect to the sale of the
13 residential property that is co-owned by the debtor and the
14 codebtor.

15 Okay. So I will hear from the trustee.

16 MR. GONZALEZ: Your Honor, as a preliminary matter,
17 we have a problem with Ms. Amarilis Gonzalez appearing on
18 behalf of her children because she's not an attorney admitted
19 to the court. And by her own representations, the proof of
20 claim is for child support owed, or allegedly owed, to the
21 children. She has been granted multiple changes to get
22 representation. The last time was at docket 204, which was
23 entered in December 10 of 2020, over a year ago.

24 She simply cannot represent her children, who are
25 adults, and that is part of the objection. And she claims --



1 THE COURT: I have --

2 MR. GONZALEZ: Yes. She --

3 THE COURT: Okay. I have a question.

4 MR. GONZALEZ: Yes.

5 THE COURT: With respect to the claim --

6 MR. GONZALEZ: Um-hum.

7 THE COURT: -- amounts that are filed on the
8 docket --

9 MR. GONZALEZ: Um-hum.

10 THE COURT: -- are those claims owed while the
11 children were minors?

12 MR. GONZALEZ: Yes, Your Honor.

13 THE COURT: Okay. So at the time of the filing of
14 the case, those were the debts owed to minors.

15 MR. GONZALEZ: Yes, but --

16 THE COURT: And then they became legal age?

17 MR. GONZALEZ: Yes. And the case law is very, very
18 clear in Puerto Rico, and I can cite -- I'm sorry, give me --
19 yes. Give me just one second. I apologize. I just opened
20 the case and closed it. Israel Figueroa v. Petra Rivera from
21 the Supreme Court of Puerto Rico, 149 DPR 565, which states
22 that as soon as the children reach the majority of age, the
23 spouse or parent loses the padre protestante and may not
24 represent the children anymore. They lose the capacity to
25 represent the children who are no longer minors.



1 And that is the case before us, Your Honor. She
2 simply cannot represent -- she's not an attorney. She's
3 definitely not admitted to the bar. And she has no capacity
4 to represent the children. They either have to come by
5 themselves, or they have to hire an attorney. Ms. Gonzalez
6 has requested, on multiple occasions, permission to hire an
7 attorney because she keeps changing attorneys, and the last
8 time was in 2020, and she failed to hire an attorney then.
9 She simply cannot represent the young adults that are no
10 longer minors.

11 THE COURT: I will hear from Ms. Amarilis Gonzalez.

12 MS. GONZALEZ: I believe -- I am not -- I don't agree
13 with what Gonzalez Valiente, attorney, said. The major thing
14 in here is that most of the time, the attorney trustee is
15 twisting the law and changing the main purpose of the law
16 because the claim, the child super debt claim was presented to
17 the court on February of 2012. That is almost ten years ago.

18 And with that presentation of the claim, I also
19 claimed that there was a post-martial community property that
20 must be divided. And through the proceedings, the trustee --
21 I sent to the trustee several reports from -- forensic reports
22 reporting concealants (sic) and traits of fraud and
23 transference of properties and everything she needed to object
24 properties that were concealed. So I presented that
25 information for the court and for the trustee to do her duty



1 as a trustee, and none of that was done.

2 I also provided the court with the case law and the
3 laws of Puerto Rico regarding post-marital community property,
4 and I explain everything. And regarding my capacity as
5 represent my children, I had the capacity when they were
6 minors, and that is the only thing I need because the
7 bankruptcy law only requires that the presentation must be
8 made by the person that can make that in the moment of the
9 origination or the filling of the claim. So again, the
10 attorneys of the trustee is mixing the law, mixing the local
11 law and the bankruptcy law.

12 And with all this, I usually -- I am an attorney for
13 the -- admitted to the local bar, and I am also admitted to
14 the federal bar, which I don't usually practice. That's why I
15 don't know exactly all the rules and all the different rules
16 that you have. So if I don't meet once or any -- it's not on
17 purpose like the attorney of trustee said in his last motion.
18 I am not doing that on purpose, I've been taking too much time
19 in this matter. I think that, as the other trustee in the
20 other case said, this matter should be conducted quick.

21 I think that trustee is even -- by the concealance
22 (sic) of the property she made, she's even violating 18 USC
23 Section 153 and 154. I submitted all the information
24 necessary. I even submitted two reports and I also submitted
25 a letter to the U.S. Trustee containing all the evidence that



1 she is telling in this motion that she never received.

2 I also made, through the attorneys, that I contracted
3 once or twice or times I contracted. And they made some
4 discoveries, and she denied and she almost answered them
5 empty, with no information. I don't know why she's trying to
6 conceal that the properties -- really, I think that that's not
7 her duty. And all that she's requesting in her motions, she's
8 twisting the law, and the ethics in Puerto Rico -- the law of
9 ethics is against that. And I think she's practicing under
10 Puerto Rico law. Also, I really don't know the federal law,
11 but the Puerto Rico law is very strict with that.

12 THE COURT: Okay. I think I'm ready to rule on the
13 issue with respect to the standing. So this case was filed
14 back in 2011. The proof of claim is over a decade old, and at
15 the time that the claim was filed, the children were minors,
16 and therefore, she had the standing to file the claim and she
17 has the standing to prosecute that claim. She, as an unpaid
18 parent, has the right to recover from the other parent that
19 has not paid the domestic support obligation in so many years.
20 So she does have the right to be heard with respect to the
21 claim that she filed over ten years ago. Claims are
22 determined at the time of the petition.

23 So I would like to move to the issue about the sale
24 of the property that is co-owned by the debtor and Ms.
25 Gonzalez, trustee.



1 MR. GONZALEZ: Yes, Your Honor. And I apologize.
2 There is a truck parked right in front of our office. We're
3 asking them to move because of the noise. So if you can't
4 hear me, just let me know, and I'll try to speak louder.

5 THE COURT: I heard you, so.

6 MR. GONZALEZ: Your Honor, as we explained in our
7 motion in compliance with order, the requirements for a
8 complaint or an action under 363(b) is that there be some
9 benefit to the estate. As shown in our motion in compliance
10 with order, there will be a benefit to the estate, and that
11 was using the value of the properties -- of the property prior
12 to the current boom in property values, Your Honor, which
13 probably means that the property will probably be worth even
14 more than it is -- than it does now.

15 I don't know if that answers your question, or if you
16 have a specific question as to any part of the response, Your
17 Honor.

18 THE COURT: Yes. My question is what is the benefit
19 to the estate? What is the benefit to the estate if the
20 trustee is able to sell it at the recent appraisal?

21 MR. GONZALEZ: Yes.

22 THE COURT: There's only one different -- there's
23 only, I understand, 1,000-dollar difference between the --

24 MR. GONZALEZ: Your Honor --

25 THE COURT: -- the real estate appraisal submitted.



1 MR. GONZALEZ: Yes. As of the time of the filing of
2 the motion in response to order, the only lien on the property
3 was 38,000 dollars. When we subtract that from 246, that
4 leaves approximately -- that leave approximately 208,000
5 dollars in equity, Your Honor. Divided by 2, that's over
6 103,000 dollars. We believe that the claim filed by Ms.
7 Amarilis Gonzalez in representation of her children is, at
8 most, 97,000 dollars, so there is a positive benefit for the
9 estate, and that is at that value. If we can sell the
10 property for more, then there will be -- there would be
11 additional benefit for the estate.

12 But Your Honor, this is a matter for when the
13 property is requested to be sold, and let me explain. If the
14 complaint is granted, that doesn't mean that the property will
15 automatically be sold. The trustee has to go and find a
16 purchaser for the property. If, when the property's sold, the
17 best offer that's obtained for -- and I'm making up an
18 example -- is 150,000 dollars, then obviously, there won't be
19 enough benefit in order to pay administrative expenses, and
20 the Court may decide -- after review, may decide to deny the
21 right to sell.

22 The complaint is only for the right to go and look
23 for a purchaser, but we still would have to go through the
24 process of the approval of the sale, which is when the benefit
25 to the estate would be determined, Your Honor. If we can sell



1 the property for 300,000 dollars, then definitely, there would
2 be enough money to pay creditors and there would be a benefit
3 to the estate. But we can't reach that stage until we're
4 allowed to do so, Your Honor. Any calculations we do now are
5 purely hypothetical, Your Honor, because we can't obtain
6 offers until we're allowed to look for them. And that is what
7 would be resolved if we finally get the complaint for 363 sale
8 to be approved. Again, we don't automatically get permission
9 to sell; we just get permission to attempt to sell, to market
10 the property.

11 Ms. Amarilis --

12 THE COURT: I'll hear from Ms. Gonzalez.

13 MS. GONZALEZ: Okay. I presented the cases for the
14 post-marital community property because if the distribution of
15 the assets must be done before the trustee knows the
16 bankruptcy estate, she needs to know the composition of the
17 bankruptcy estate because it's important because debtor
18 already have more than almost the majority of the assets
19 that's to be computer in that estate, in the post-marital
20 community property.

21 So the attorney needs to bring those assets and then
22 divide them and sell what he already has because he has the
23 majority. He has the assets that compose the corporation
24 that -- if he brings the shares of the corporation and sell
25 the asset that he already took that I don't -- assets that



1 belong to both of us, then he should be able to sell what the
2 debtor already took. The debtor took the majority of the
3 assets that should be considered, and this is the only
4 property remaining that he also -- the debtor and the trustee
5 also want.

6 But they took what he already have and consider
7 selling to pay the corporation debts because the biggest and
8 substantial debt claimed in this Chapter 7 bankruptcy is a
9 debt from (indiscernible) corporation. And he's trying to
10 sell the residential property, the one property left, to pay
11 mostly corporation debts.

12 And the thing is that he needs to bring all that to
13 consider obtaining the portion that could respond to the
14 debtor for them determining what is compose the bankruptcy
15 estate. And then I suggest that -- I recommend that they can
16 sell those properties. And in fact, those properties, after
17 the corresponding distribution, can be sell to pay the
18 corporation debts. That's the reasonable thing to do.

19 And regarding the residential property, since the
20 beginning, I requested that the portion could be adjudicated
21 because of the child support seizures of properties. I
22 presented the disposition. I don't have it here, ready,
23 but -- and I also -- the property can also be -- I can request
24 the property as a reimbursement for the debt in the post-
25 marital distribution. And as I said, the best solution is to



1 bring the properties and the assets and the corporation shares
2 to pay the corporation debts after the corresponding
3 distribution and after the corresponding determination of the
4 charges made to defraud and the charges made by the actual
5 spouse and all that.

6 And also, Puerto Rico law includes the actual spouse
7 to be responsible for his debts. So she must be included in
8 the proceedings to pay his debts. And she was also married at
9 the time he claimed for the bankruptcy, so that could be
10 another option.

11 MR. GONZALEZ: Your Honor, Attorney Gonzalez
12 Valiente, representation of the estate. With all due respect
13 to Ms. Gonzalez, nothing of what she just said has anything to
14 do with whether this property can be sold under Section
15 363(c). There is a benefit to the estate, but like we said,
16 we estimate there will be a benefit to the estate, but until
17 we can market the property, we won't know for sure. When a
18 motion for sale of the property is filed, Ms. Amarilis has all
19 the right to come and say that there's no benefit or whatever
20 other objection she may have to the sale at that time.

21 And to answer, because I feel compelled after all the
22 comments by Ms. Gonzalez, she did send a report on what she
23 believes to be fraudulent actions by the debtor. We
24 investigated. The trustee investigated it. The U.S. Trustee
25 investigated it. And there is nothing -- they found nothing



1 to support those allegations.

2 If Ms. Amarilis believes that the debtor committed
3 fraudulent actions, she could have filed a complaint to object
4 the discharge, Your Honor. She did not. And that is the
5 reason why a competent attorney has to represent parties in
6 these proceedings. She simply does not understand the
7 process. And it's fine; she's not a practicing attorney.
8 There's nothing wrong with that. But she does need to hire
9 counsel, or she's simply making all of us and the Court waste
10 our time because she did not address the Court's questions now
11 or before, in her other arguments.

12 Whether she can or cannot file a reimbursement
13 action, Your Honor, she can't. The time for filing a proof of
14 claims has passed years ago. She may not file another claim.

15 If she believes that the debtor committed fraud,
16 there are vehicles that can be used to addressed that, and the
17 debtor can defend himself. The estate is the estate, and the
18 house is an asset of the estate, which the trustee has a duty
19 to dispose of in order to pay creditors. This is not that she
20 wants; it is her duty imposed upon her as a trustee.

21 THE COURT: Let me ask a question. Back to the sale,
22 the notary fee would be one percent, correct, of any sale that
23 the trustee conducts on the residential property?

24 MR. GONZALEZ: Between --

25 THE COURT: Under state law.



1 MR. GONZALEZ: Between half a percent and one
2 percent.

3 THE COURT: But the law requires one percent. You
4 would have to get a notary to agree to less, correct?

5 MR. GONZALEZ: No. The law says that the notary may
6 charge between half a percent and one percent. That's what
7 the notary law says. Or zero percent; he can waive his fees
8 if he wants. But the purchaser could also pay the notary fees
9 if he so wishes.

10 So again, until we have a transaction that is offered
11 by the trustee with a proposed purchaser, we can't know if
12 there will be a benefit to the estate and how much. Again, if
13 the property can be sold for 350,000 dollars -- and I'm
14 inventing the number -- there's definite benefit to the
15 estate, but we won't know until we can market the property,
16 Your Honor.

17 THE COURT: What I have is two appraisals, one for
18 245,000 and 246,000. The trustee believes they could sell it
19 for higher than the appraisal amount?

20 MR. GONZALEZ: Under current market circumstances,
21 yes, Your Honor. But even with those appraisals, the --

22 THE COURT: But they just filed an appraisal for
23 246,000.

24 MR. GONZALEZ: Sorry. Yes, but that was from eight
25 months ago, and the current market for properties is



1 exploding. Everything is being sold over appraised values,
2 Your Honor. But more importantly -- and this is -- and this
3 is -- and this is very important, Your Honor -- the property
4 only has 38,000 dollars in liens. So if --

5 THE COURT: How is that? I thought the claim was for
6 58,041 dollars, claim 2-2, so --

7 MR. GONZALEZ: We --

8 THE COURT: How is it 38,000?

9 MR. GONZALEZ: We obtained a -- obviously payments
10 were made post-petition on the mortgage, and we obtained, at
11 one point --

12 THE COURT: And the trustee's planning to take
13 advantage of those payments that were paid to --

14 MR. GONZALEZ: There are so many -- we only have to
15 pay the lienholder what they are owed, Your Honor. And
16 currently, they are owed approximately --

17 THE COURT: And the trustee doesn't have to take into
18 account the amounts that were paid to reduce that amount?

19 MR. GONZALEZ: No, Your Honor. In order to provide a
20 benefit to the estate, the only things that have to be
21 subtracted are liens and other expenses associated with the
22 sale. That's it. The rest is a benefit to the estate, and
23 the rest are claims against the estate that have to be paid
24 from the benefit that is obtained from the sale.

25 THE COURT: Okay.



1 MR. GONZALEZ: If Ms. Amarilis believes that she
2 has --

3 MS. GONZALEZ: Okay. It -- the

4 MR. GONZALEZ: -- she has --

5 THE COURT: Excuse me. Excuse me --

6 MR. GONZALEZ: Yes.

7 THE COURT: -- Ms. Gonzalez, let the trustee finish,
8 and I'll come to you in a moment.

9 MS. GONZALEZ: Okay. Sorry.

10 MR. GONZALEZ: Yes. Again, if Ms. Amarilis Gonzalez
11 believes that she has a post-petition claim for any payments
12 that she made, she may file a claim. Post-petition claims are
13 administrative claims and are not -- and are not time-barred
14 like pre-petition claims. But once again, they are claims
15 against the estate that have to be made, proven, and paid from
16 the benefit obtained from the sale. The only thing that has
17 to be paid from the sale -- the rest is benefit -- are the
18 cost of the sale and the liens, Your Honor. And again, we
19 don't have -- we cannot have the proves to really know what
20 the benefit to the estate will be until we reach the stage of
21 asking permission of the Court for sale of the property.

22 Your Honor, there is no -- there is no --

23 THE COURT: Mr. Gonzalez. Mr. --

24 MR. GONZALEZ: Yes.

25 THE COURT: -- Gonzalez, a question, another question



1 I have.

2 MR. GONZALEZ: Okay.

3 THE COURT: Has the trustee hired a realtor in the
4 case.

5 MR. GONZALEZ: I don't recall, Your Honor.

6 THE COURT: And how much --

7 MS. WISCOVITCH: Your Honor, if I may?

8 THE COURT: Yes, Ms. Gonzalez.

9 MS. WISCOVITCH: No, it's Noreen Wiscovitch, the
10 Chapter 7 trustee.

11 THE COURT: Oh, I'm sorry.

12 MS. WISCOVITCH: If I may?

13 THE COURT: Yes.

14 MS. WISCOVITCH: I just wanted to say that I have not
15 been able -- I believe that I realtor was hired at the
16 beginning. I will check the docket. But the realtor has not
17 been able to enter the property, just like none of the
18 appraisers have been able to enter the property because Ms.
19 Gonzalez has not allowed it. So I have not been able to
20 market the property.

21 THE COURT: Okay. Just --

22 MS. GONZALEZ: No. That's not true.

23 THE COURT: So what is the commission for -- the real
24 estate commission for the person who is going to sell? What
25 is their commission?



1 MR. GONZALEZ: It's usually --

2 THE COURT: It's --

3 MR. GONZALEZ: -- three percent, but I don't know
4 what it was in this case. I'm going to check right now in the
5 docket.

6 THE COURT: Okay.

7 MR. GONZALEZ: It's usually approximately three
8 percent.

9 THE COURT: Okay. Ms. Gonzalez?

10 MS. GONZALEZ: Yes. It's not true -- it's not true
11 that I didn't allow the appraiser. The appraiser did come
12 inside the house, and he made the appraisal from seeing the
13 house. So it's not true.

14 THE COURT: Your appraisal or the appraisal of the
15 trustee?

16 MS. GONZALEZ: Appraiser of the trustee.

17 THE COURT: Okay. Okay.

18 MR. GONZALEZ: I don't believe that a realtor has
19 been hired in this case, Your Honor. I just checked the
20 docket, and no realtor has been hired in this case, Your
21 Honor.

22 THE COURT: Okay. Okay. Can you give me, I would
23 say, a ten-minute recess. I just want to think about this.
24 So I am going to turn off my camera --

25 MR. GONZALEZ: May I make one final comment, Your



1 Honor, before --

2 THE COURT: No.

3 MR. GONZALEZ: Okay.

4 THE COURT: No. That --

5 MS. GONZALEZ: I am going to add something if I --

6 THE COURT: No, Ms. Gonzalez, either. Okay. I'm
7 going to evaluate, and I've heard the parties. I have another
8 case that needs to be called. I just want to look at the
9 numbers. Thank you. Please stay on the call. I am going to
10 turn off my camera and mute myself. I suggest you do so as
11 well. And let's put it an exact time; we will come back to
12 10:15. So there will be a short recess.

13 (Whereupon a recess was taken)

14 THE COURT: The Court is ready to rule. The Court
15 has heard the parties and has reviewed the various motions
16 filed in the case. And this is the ruling of the Court.

17 And our ruling is that the trustee has not met her
18 burden to show, one, the benefit to the estate. And even if
19 she could meet this burden, then the trustee would have to
20 show that this benefit outweighs the detriment to the ex-
21 spouse.

22 And so based on our calculations, we are going to use
23 the higher amount of the appraisal report, which is 246,000
24 dollars. That is based on the trustee's real estate
25 appraisal. We are not going to speculate that it could be



1 even sold higher because this is what the trustee's real
2 estate appraisal found, that it was valued at 246,000 dollars,
3 and it is a recent appraisal.

4 From that amount, we are going to subtract the Banco
5 Popular's secured claim of \$58,000.41. Although the trustee
6 is trying to lower that amount to approximately 33-, 35,000
7 dollars, the trustee admitted that the DSO recipient could
8 file a post-petition claim for the mortgage payments. So when
9 you subtract 246,000 minus \$58,000.41, that gives us a
10 subtotal of 187,959 dollars.

11 From there, we're going to subtract the closing
12 costs. We're going to use 0.5 percent instead of the
13 customary 1 percent. That would be 1,230 dollars minus -- so
14 that would be 1,230 dollars minus 187,959 dollars. That would
15 leave us 186,729 dollars.

16 Then we're going to subtract from that amount the
17 three percent for the realtor. I understand the customary is
18 four percent, but the trustee mentioned three percent for the
19 commission for the realtor. That is 7,380 dollars minus the
20 186,729 dollars. That would leave us a subtotal of 179,349.

21 From that amount, we would subtract the homeowner's
22 association claim, which is \$31,959.04 minus the 179,349.
23 That would leave us a subtotal of \$147,389.96

24 We would have to divide that in half. Half would go
25 to the estate; half would go to the DSO. So dividing that



1 number by half, that would be \$73,694.98. The DSO claim is
2 for 97,421 dollars. And we're assuming that we would grant
3 the trustee's objection. There's not enough money to pay the
4 DSO in full, and since there's not enough money to pay the DSO
5 in full, there's no extra money for any other unsecured
6 creditor of the estate.

7 So the detriment to the ex-spouse clearly outweighs
8 any benefit to the estate. The sale would only satisfy the
9 secured creditor, the trustee's fees, the HOA fees, and
10 partially pay -- partially pay -- the ex-spouse. And that
11 would mean that the ex-spouse would become homeless because
12 she would lose her home and then not be paid one hundred
13 percent of her DSO claim that she filed in the case. And no
14 other unsecured creditors would be paid from the sale.

15 And even if the trustee were to find a buyer that
16 would pay all the closing costs, there still would not be
17 enough to satisfy, in full, the DSO claim and leave money left
18 over for unsecured claims. The party that would most benefit
19 from the sale is the secured creditor and the HOA claim.

20 So in the balance, the sale causes more detriment to
21 the ex-spouse than it benefits the bankruptcy estate. Even if
22 the sale took place, all other unsecured claims would not be
23 satisfied.

24 So for those reasons, the Court dismisses the
25 adversary action filed by the trustee against the co-owner



1 because the trustee has failed to show cause that it complies
2 with the third prong of the test under Section 363(h) of the
3 bankruptcy case. So the case is dismissed. That is the
4 ruling of the Court. I thank the parties for their time and
5 their arguments.

6 We are going to call the next case.

7 MR. GONZALEZ: Yeah --

8 THE COURT: Mr. Gonzalez?

9 MR. GONZALEZ: Yes, Your Honor. We would also like
10 to have the Court resolve the objection to claim, Your Honor.

11 THE COURT: The objection to claim is moot.

12 MR. GONZALEZ: No, Your Honor. It's not. We filed
13 an objection to claim. It has to be decided.

14 THE COURT: So we will hear that on March 9th, 2022,
15 at 9 a.m. I have to call the next case.

16 MR. GONZALEZ: Thank you, Your Honor. Have a good
17 day. Permission to withdraw.

18 THE COURT: You are granted permission to withdraw.
19 Anyone else that wishes to withdraw, you may do so. You can
20 disconnect from the call. We are going to call the next case
21 unless --

22 MS. GONZALEZ: Thank you. Okay.

23 THE COURT: Good day to all.

24 (At 10:30 am, proceedings concluded.)

25 * * *



1 U.S. BANKRUPTCY COURT)
2 DISTRICT OF PUERTO RICO)

3
4 I certify that this transcript consisting of 22 pages
5 is a true and accurate transcription to the best of my ability
6 of the audio proceeding in this case before the Honorable
7 Mildred Caban Flores on February 9, 2022, as recorded by the
8 Courtroom Deputy.

9 Audio proceedings were recorded and were provided to
10 this reporter by the U.S. Bankruptcy Court, and this certified
11 reporter accepts no responsibility for any events that
12 occurred during the above proceedings, for any inaudible
13 and/or indiscernible responses by any person or party involved
14 in the proceeding or for the content of the audio recording
15 provided.

16
17 *Shoshana Chana Axtell*

18 _____
19 Shoshana Chana Axtell, CDLT-106
20 Official Court Transcriber

21 May 4, 2022

22 eScribers, LLC

23 7227 N. 16th Street

24 Suite #207

25 Phoenix, AZ 85020

